

DISCUSSION OF THE AMENDMENT

Claims 1-3, 5-8, 10-21 and 23-26 are active in the present application. Claims 4, 9 and 22 are canceled claims. Claims 15 and 18-19 are currently withdrawn from prosecution. Claims 23-26 are new claims. Support for the new claims is found on pages 4 and 5 of the specification.

No new matter is added.

REMARKS

Present independent Claim 1 now recites that the anti-lumping additive is at least one selected from the group consisting of Fe₂O₃ and C₈₋₂₅ esters of fatty acids with Fe.

Previously presented Claims 20-22 recited Fe₂O₃ as the anti-lumping additive of Claims 1, 5 and 11. Previously presented Claims 20-22 were rejected only over Nonweiler (U.S. 3,457,205 in combination with Bardman (U.S. 2003/0018103).

The Office asserted that Nonweiler teaches a composition for making coated expanded polystyrene foam that includes (i) a matrix obtained from polystyrene beads, (ii) an expanding agent englobed in the polymeric matrix and (iii) an amount of an organic or inorganic pigment, as a reason why Claims 20-22 are obvious over the combination of Nonweiler and Bardman.

Applicants submit the rejection is not supportable in view of the differences between the compositions of the cited art and the presently claimed invention. The composition described in Nonweiler includes a component not take into consideration by the Office. In addition to expandable polystyrene beads, the Nonweiler composition includes a non-expandable thermoplastic resin powder:

In accordance with the invention there is provided a free-flowing molding composition comprising expandable polystyrene beads, 0.33-3 parts by weight, per part beads, of a non-expandable thermoplastic resin powder and 3-40% by weight, based on the weight of the beads of the retained water in the form of a hydrate containing at least 25% by weight chemically bound water.

See the paragraph bridging columns 1 and 2 of Nonweiler.

The non-expandable thermoplastic resin powder of Nonweiler is necessary for obtaining coated expanded polystyrene articles from a polystyrene composition :

If less than 0.33 part by weight of non-expandable resin powder is used, the resulting molded article has an insufficient thermoplastic skin surface.

See the sentence bridging columns 2 and 3 of Nonweiler.

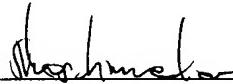
The compositions of Nonweiler are excluded from the present claims and thus cannot render the present claims obvious. For example, independent Claim 1 recites a composition "consisting of" component a) a matrix obtained by polymerizing a vinyl aromatic monomer and at least copolymerizable monomer, component b) an expanding agent, and a component c) an anti-lumping additive. The beads of present Claim 1 consist of components a), b) and c) recited in Claim 1. The composition of Nonweiler must be excluded from the presently claimed invention because Nonweiler includes a non-expandable thermoplastic resin material that is not recited in the present claims.

Applicants submit that those of ordinary skill in the art would have no expectation of success in modifying Nonweiler to arrive at the presently claimed invention by, for example, excluding the non-expandable thermoplastic resin material from the Nonweiler composition. Removing this component from the Nonweiler composition would result in a composition that is unable to provide a thermoplastic skin surface such as the required in the cited art. In effect, such a modification would render the Nonweiler compositions inoperable and unusable for their intended purpose.

Applicants thus request withdrawal of the rejections and the allowance of all now-pending claims.

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